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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/592,563	06/12/2000	Mike Kinsella	KC-0040	3714

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FLESHNER & KIM, LLP  
P.O. BOX 221200  
CHANTILLY, VA 20153

EXAMINER
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NGUYEN, LEE

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 02/18/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/592,563

Applicant(s)

KINSELLA, MIKE

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 and 29-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 29-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 12 November 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to the communication filed 11/12/2003.

Claim 28 was canceled. Claims 1-27, 29-46 remain in prosecution.

### ***Drawings***

1. The drawings were received on 11/12/2003. These drawings are approved by the examiner.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 9, 11, 15, 17-19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by the prior art admitted by Fraccaroli (US 6,549,768).

Regarding claim 1, the admitted prior art of Fraccaroli teaches a message pushing system for sending messages to recipients, the system comprising a database of details of individual potential recipients (col. 1, line 29), inherently including telecommunications links for communicating with message sending and message receiving devices (e-mail, col. 1, line 47), the message pushing system being adapted to receive a message from a message sending means, the message comprising details of the intended recipient of the message, wherein the message pushing system compares the details of the intended recipient of the message with the database of potential recipient's details thereby establishing one or more members who may be the intended recipient, the message pushing system (1) being adapted to transmit said message to the message receiving means of the one or more members who may be the intended recipient (see matching, col. 1, lines 25-52).

Regarding claims 2-3, the admitted prior art of Fraccaroli also teaches that the details of individual potential recipients including their sex, their hair length and color, their eye color, their age, their height (col. 1, line 32-35).

Regarding claim 4, the admitted prior art of Fraccaroli further teaches including one or more of the e-mail address (col. 1, line 47).

Regarding claims 9, 11, the admitted prior art inherently teaches updating their details (col. 1, lines 32-34, see age, marital status, interests, which can be changed in the future).

Regarding claim 15, the admitted prior art also teaches that one device can function as both a message sending means and a message receiving means (e-mail, col. 1, line 47).

Regarding 17, the admitted prior art also teaches the communication link including the Internet, which inherently includes receiving and sending message (col. 1, line 46).

Regarding claim 18, the admitted prior art also teaches e-mail (col. 1, line 49).

Regarding claim 19, the admitted prior art also teaches relational database (col. 1, line 27-30).

Regarding claim 22, the admitted prior art also teaches a plurality of message sending and message receiving means, adapted to send messages to and receive message from the message pushing system (col. 1, lines 34-35).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-8, 10, 12-14, 16, 20-21, 23-27, 29-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art admitted by Fraccaroli in view of Fraccaroli.

Regarding claims 5-6, the admitted prior art fails to teach that the database also includes information about the current location of the recipient. According to Fraccaroli, the database also includes information about the current location of the recipient (col. 10, lines 25-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Fraccaroli to the admitted prior art in order to provide the sender with the most updated information.

Regarding claims 7-8, the admitted prior art as modified also frequently visited locations which including previous locations in the frequently visited locations(col. 10, line 26).

Regarding claim 10, the admitted prior art as modified also teaches updating their details automatically (col. 9, line 66 – col. 10, line 3, location update).

Regarding claim 12, the admitted prior art as modified also teaches allowing messages to be delivered to recipients without the sender of the message knowing the identity of the recipient (col. 2, line 52).

Regarding claims 13-14, the admitted prior art as modified also teaches that the comparison between the details of the potential recipient and member's details on the database does not need to be exact and how close a match between details is required for that message to be sent to that potential recipient (col. 8, lines 43-46).

Regarding claim 16, the admitted prior art as modified also teaches mobile communication (fig. 1, numeral 102). The admitted prior art fails to teach using WAP or I-MODE. It is taken official notice that the art using Wireless Access Protocol in mobile communication is conventionally well known and considered as a standard. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include WAP to the system of the admitted prior art in order to allow mobile to access to the Web.

Regarding claim 20, the admitted prior art as modified also teaches that the message is transmitted to the recipient or recipients only on request from the recipient or recipients (willingness, col. 2, line 58).

Regarding claim 21, the admitted prior art as modified also teaches that a web site is used to display the message (col. 8, line 52).

Regarding the independent method claim 23, the claim is interpreted and rejected for the same reason as set forth in claims 2 and 5.

Regarding claim 24, the claim is interpreted and rejected for the same reason as set forth in claim 2.

Regarding claims 25-26, the claims are interpreted and rejected for the same reason as set forth in claim 3.

Regarding claim 27, the claim is interpreted and rejected for the same reason as set forth in claim 4.

Regarding claim 29, the claim is interpreted and rejected for the same reason as set forth in claim 6.

Regarding claim 30, the claim is interpreted and rejected for the same reason as set forth in claim 7.



Regarding claim 31, the claim is interpreted and rejected for the same reason as set forth in claim 8.

Regarding claim 33, the claim is interpreted and rejected for the same reason as set forth in claim 9.

Regarding claim 34, the claim is interpreted and rejected for the same reason as set forth in claim 10.

Regarding claim 35, the claim is interpreted and rejected for the same reason as set forth in claim 11.

Regarding claim 36, the claim is interpreted and rejected for the same reason as set forth in claim 12.

Regarding claim 37, the claim is interpreted and rejected for the same reason as set forth in claim 13.

Regarding claim 38, the claim is interpreted and rejected for the same reason as set forth in claim 14.

Regarding claim 39, the claim is interpreted and rejected for the same reason as set forth in claim 15.

Regarding claim 40, the claim is interpreted and rejected for the same reason as set forth in claim 16.

Regarding claim 41, the claim is interpreted and rejected for the same reason as set forth in claim 17.

Regarding claim 42, the claim is interpreted and rejected for the same reason as set forth in claim 18.

Regarding claim 43, the claim is interpreted and rejected for the same reason as set forth in claim 19.

Regarding claim 44, the claim is interpreted and rejected for the same reason as set forth in claim 20.

Regarding claim 45, the claim is interpreted and rejected for the same reason as set forth in claim 21.

Regarding claim 46, the claim is interpreted and rejected for the same reason as set forth in claim 1 in which Fraccaroli also teaches a plurality of communication links (see links between mobiles 102 and cell 104 in figure 1).

### ***Response to Arguments***

6. Applicant's arguments filed 11/12/2003 have been fully considered but they are not persuasive.

In the remarks, Applicant contends that Fraccaroli fails to teach any type of system that will identify potential intended recipients within a database based on individual identifying details in a received message and that the system will not forward a message to the identified members.

In response, as stated in the background invention of Fraccaroli, the database in the system matches the customer with others based upon personal information according to the request from the customer (col. 1, lines 30-42). Fraccaroli also teaches using the Internet in order to contact their customers by e-mail and each person can corresponding with other via e-mail (col. 1, lines 44-50). Therefore, Fraccaroli does teach the claimed limitation.

Regarding the rejection of independent claim 23, Applicant repeats the argument as applied to claim 1, which has been responded as stated above. Applicant further argues that the user does not send a message to the system that includes details of appearance and location of an intended recipient.

In response, the admitted prior art of Fraccaroli also teaches that the details of individual potential recipients including their sex, their hair length and color, their eye color, their age, their height (col. 1, line 32-35), and the

database also includes information about the current location of the recipient (col. 10, lines 25-28). Therefore, Fraccaroli does teach the claimed limitation.

From the above, the examiner strongly believes that the rejection of claims 1-17 and 29-46 should be sustained.

### ***Conclusion***

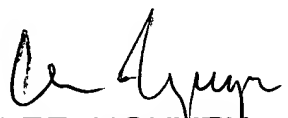
7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 2/12/04  
LEE NGUYEN  
Primary Examiner  
Art Unit 2682